SUMMONS - CIVIL
(Except Family Actions)

JD-CV-1 Rev. 1-2000
C.G.S. § 51-346, 51-347, 51-349, 51-350, 52-45a, 52-48, 52-259, P.B. Secs 3-1 thru 3-21, 8-1

STATE OF CONNECTICUT
SUPERIOR COURT
www.jud.state.ct.us

"X" ONE OF THE FOLLOWING:
Amount, legal interest or property in demand, exclusive of interest and costs is:
- ☐ less than $2,500
- ☐ $2,500 through $14,999.99
- ☒ $15,000 or more

("X" if applicable)
☐ *Claiming other relief in addition to or in lieu of money or damages.*

INSTRUCTIONS

1. *Type or print legibly: sign original summons and conform all copies of the summons.*
2. *Prepare or photocopy conformed summons for each defendant.*
3. *Attach the original summons to the original complaint, and attach a copy of the summons to each copy of the complaint. Also, if there are more than 2 plaintiffs or 4 defendants prepare form JD-CV-2 and attach it to the original and all copies of the complaint.*
4. *After service has been made by a proper officer, file original papers and officer's return with the clerk of court.*
5. *The party recognized to pay costs must appear personally before the authority taking the recognizance.*
6. *Do not use this form for actions in which an attachment, garnishment or replevy is being sought. See Practice Book Section 8-1 for other exceptions.*

TO: Any proper officer; BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this Summons and attached Complaint.

RETURN DATE *(Mo., day, yr.)* *(Must be a Tuesday)* 2/22/2005

☒ JUDICIAL DISTRICT ☐ HOUSING SESSION ☐ G.A. NO. ____

AT *(Town in which writ is returnable) (C.G.S. 51-346, 51-349)*: Hartford

CASE TYPE *(See JD-CV-1c)*: Major M Minor 90

ADDRESS OF COURT CLERK WHERE WRIT AND OTHER PAPERS SHALL BE FILED *(No., street, town and zip code) (C.G.S. 51-346, 51-350)*: 95 Washington Street, Hartford, CT 06106

TELEPHONE NO. *(with area code)*: 860/548-2700

PARTIES	NAME AND ADDRESS OF EACH PARTY *(No., street, town and zip code)* — *NOTE: Individuals' Names: Last, First, Middle Initial*	☐ Form JD-CV-2 attached	PTY NO.
FIRST NAMED PLAINTIFF	State of Connecticut, c/o Attorney General, 55 Elm Street, Hartford, CT 06106		01
Additional Plaintiff			02
FIRST NAMED DEFENDANT	Marsh & McLennan, Incorporated, 1166 Avenue of the Americas, New York, NY 10036-2774		50
Additional Defendant	Marsh USA Risk Services, Inc. d/b/a Marsh USA, Inc., One State Street, Hartford, CT 06103		51
Additional Defendant	ACE Financial Solutions, Inc., 1601 Chestnut Street, Philadelphia, PA 19103		52
Additional Defendant			53

NOTICE TO EACH DEFENDANT

1. **YOU ARE BEING SUED.**
2. This paper is a Summons in a lawsuit.
3. The Complaint attached to these papers states the claims that each Plaintiff is making against you in this lawsuit.
4. To respond to this Summons, or to be informed of further proceedings, you or your attorney must file a form called an "Appearance" with the Clerk of the above-named Court at the above Court address on or before the second day after the above Return Date.
5. If you or your attorney do not file a written "Appearance" form on time, a judgment may be entered against you by default.
6. The "Appearance" form may be obtained at the above Court address.
7. If you believe that you have insurance that may cover the claim that is being made against you in this lawsuit, you should immediately take the Summons and Complaint to your insurance representative.
8. If you have questions about the Summons and Complaint, you should consult an attorney promptly. **The Clerk of Court is not permitted to give advice on legal questions.**

DATE: 1/21/05

SIGNED *(Sign and "X" proper box)*: Robert D. Snook

☒ Comm. of Superior Court ☐ Assistant Clerk

TYPE IN NAME OF PERSON SIGNING AT LEFT: Robert D. Snook

FOR THE PLAINTIFF(S) PLEASE ENTER THE APPEARANCE OF:

NAME AND ADDRESS OF ATTORNEY, LAW FIRM OR PLAINTIFF IF PRO SE *(No., street, town and zip code)*: Richard Blumenthal, Attorney General, By Robert D. Snook, Asst. Atty. General, 55 Elm St, Hartford, CT 06106

TELEPHONE NUMBER: 860-808-5020

JURIS NO. *(If atty. or law firm)*: 409632 & 417145

NAME AND ADDRESS OF PERSON RECOGNIZED TO PROSECUTE IN THE AMOUNT OF $250 *(No., street, town and zip code)*: N/A - Action by State of Connecticut

SIGNATURE OF PLAINTIFF IF PRO SE

# PLFS.	# DEFS.	# CNTS.	SIGNED *(Official taking recognizance, "X" proper box)*	
1	3	1	Robert D. Snook	☒ Comm. of Superior Court ☐ Assistant Clerk

For Court Use Only

FILE DATE

IF THIS SUMMONS IS SIGNED BY A CLERK:
a. The signing has been done so that the Plaintiff(s) will not be denied access to the courts.
b. It is the responsibility of the Plaintiff(s) to see that service is made in the manner provided by law.
c. The Clerk is not permitted to give any legal advice in connection with any lawsuit.
d. The Clerk signing this Summons at the request of the Plaintiff(s) is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service thereof.

I hereby certify I have read and understand the above:	SIGNED *(Pro Se Plaintiff)*	DATE SIGNED	DOCKET NO.

ORIGINAL

RETURN DATE: February 22, 2005

STATE OF CONNECTICUT Plaintiff, v. MARSH & MCLENNAN, INC., MARSH USA RISK SERVICES, INC. D/B/A MARSH USA, INC., AND ACE FINANCIAL SOLUTIONS, INC. Defendants.	SUPERIOR COURT JUDICIAL DISTRICT OF HARTFORD AT HARTFORD JANUARY 21, 2005

COMPLAINT

1. The plaintiff, STATE OF CONNECTICUT, represented by RICHARD BLUMENTHAL, ATTORNEY GENERAL OF THE STATE OF CONNECTICUT brings this action pursuant to the Connecticut Unfair Trade Practices Act, Chapter 735a of the Connecticut General Statutes, and more particularly, Conn. Gen. Stat. § 42-110g for the purpose of seeking appropriate relief for violations of Conn. Gen. Stat. § 42-110b(a).

PARTIES

Plaintiff

2. This is an action under Conn. Gen. Stat. § 42-110g, the Connecticut Unfair Trade Practices Act ("CUTPA"), Chapter 735a of the Connecticut General Statutes, for actual and

punitive damages against the defendants' alleged violations of Conn. Gen. Stat. § 42-110b(a), which governs unfair or deceptive acts and practices.

3. The plaintiff is the State of Connecticut, represented by Richard Blumenthal, Attorney General of Connecticut, pursuant to the authority of Chapter 735a of the General Statutes, more particularly, Conn. Gen. Stat. § 42-110g.

Defendants

4. Defendant Marsh & McLennan, Inc. ("MMC") is a Delaware brokerage and consulting corporation with offices in Connecticut and is registered with the Connecticut Secretary of State with its principal place of business in New York City, New York. At all times material to this complaint, MMC has transacted business in the State of Connecticut by, including but not limited to, providing insurance brokerage, consulting and counseling services.

5. Defendant Marsh USA Risk Services, Inc. d/b/a Marsh USA, Inc. (together with MMC, "Marsh") is a Delaware insurance brokering and consulting corporation with offices in Connecticut and is registered with the Connecticut Secretary of State and is a wholly owned subsidiary of MMC, with its principal place of business in Hartford, Connecticut. At all times material to this complaint, Marsh has transacted business in the State of Connecticut by, including but not limited to, providing insurance brokerage, consulting and counseling services.

6. Marsh is in the business of providing insurance brokerage and consulting services to corporations, state and municipal governmental agencies, and individuals seeking medical,

group life, dental, disability as well as other insurance products such as property and casualty, excess liability, etc. for their businesses and/or employees.

7. Defendant ACE Financial Solutions, Inc. ("ACE") is an insurance company organized under the laws of Delaware and registered as a foreign corporation with the Connecticut Secretary of State's Office and having a business address at 1133 Avenue of the Americas, New York, New York. At all times material to this complaint, ACE has transacted business in the State of Connecticut by, including but not limited to, marketing and selling insurance products that are the subjects of this action which are ultimately sold or distributed to entities in the State of Connecticut and elsewhere.

Whenever reference is made in this complaint to any representation, act or transaction of any the defendants, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents or representatives while actively engaged in the course and scope of their employment, did or authorized such representations, acts, or transactions on behalf of said defendant.

I. PRELIMINARY FACTUAL ALLEGATIONS

A. The Insurance Brokerage Industry

8. There are three primary actors in the large scale commercial and governmental insurance industry. First, there are large private and public organizations seeking to purchase insurance products. Second, there are consultants, or brokers, like Marsh, which have specialized knowledge of insurance and are retained by employers and other clients to provide

risk management advice, design employee benefits plans, and/or help select the appropriate insurance product and insurer. Brokers use the terms "broker," "producer" and "consultant" interchangeably to describe themselves to their clients and potential clients. (Consultants, producers, and brokers are collectively referred to herein as "brokers') Brokers solicit quotes from insurers; present insurers' proposals to their clients; recommend the optimal proposal for the client; and represent the client in negotiations with the insurer. Under Connecticut law, once a client has paid, or agreed to pay, a commission to a broker, the broker is in a fiduciary relationship to the client and is charged with seeking the client's best interest including providing disclosure of material facts that would affect that relationship. Finally, there are insurers. Insurers rarely sell insurance directly to the larger commercial institutions; they almost always sell through brokers. One common method for entering into an insurance agreement involves the use of formal requests for proposals ("RFPs") from the prospective purchaser through a broker to a group of insurers. The successful insurance company will then enter into a contract with the public institution or private employer to provide the specific insurance coverages.

9. Prior to 1984, the insurance brokerage industry included a number of brokerage and consulting organizations which provided a healthy degree of competition for the medium and large capitalized commercial and public sector market. Within the last two decades, however, there has been a sea change in the industry, which has led to a significant consolidation in the brokerage industry, largely due to mergers and acquisitions by a few key firms. This

consolidation has left the few remaining brokers with considerable market power, and thus influence, in the market.

10. Marsh, for example, acquired Mercer Consulting Group ("Mercer") and Seabury and Smith, Inc. and is now the largest provider of insurance brokerage and consulting services in the world. Marsh has approximately 40,000 employees and according to its 2003 financial statement, generated annual revenues of over $ 6.9 billion. Marsh's insurance brokerage and consulting business operates nationwide through several regional offices and derives revenue from, among other places, business transacted within the State of Connecticut, where it has an office. In addition to its commercial clients, Marsh also has acted as an insurance broker for the State of Connecticut and several of its towns and cities including Hartford, Mansfield and Manchester.

11. Marsh holds itself out to its clients as a trusted expert in the analysis and placement of insurance policies. Businesses and individuals who need insurance retain Marsh to help them design an insurance plan and negotiate with insurance companies to get the best mix of coverage, service, financial security and price.

12. According to Marsh, "[o]ur guiding principle is to consider our client's best interest in all placements." It boasts, "[w]e are our clients' advocates, and we represent them in negotiations. We don't represent the [insurance companies]."

13. According to its agreements with its clients, Marsh's compensation for its consulting and brokerage services generally derives from: (i) a flat fee or (ii) commissions representing a percentage of the premiums paid by its clients.

14. What the client agreements have generally not disclosed, and did not disclose in this case, is that Marsh has separate side arrangements with certain insurers, including, among others, ACE, under which the brokers have received additional incentive payments. These arrangements – variously known as "special producer agreements," "quality business incentives awards," "preferred broker compensation plans," "competitive bonus programs" and "extra compensation agreements" – are known generally as "overrides" or "bonuses." On occasion, Marsh would style its bonus arrangements as payments for nonexistent or minimal "services" from insurers and would prepare written agreements called "placement service agreements," ("PSAs"), "market service agreements" ("MSAs"), or, in one case, "underwriter service agreements" ("USAs").

15. However the agreements were characterized, they laid the groundwork for Marsh, and other brokers, to divide their loyalty between their clients and the insurers and, in some cases, to secretly sell their loyalty entirely to the insurer.

16. These override or bonus agreements are a significant source of income to Marsh and other brokers. These override program rewards are not just monetary in nature, but also include stock in the insurance companies or loan forgiveness of both interest and, in some cases, principal. According to one insurance company, total incentive programs, including cash, stock

plans and forgiveness of loans, totaled more than $136 million in 2000, $147 million in 2001, and almost $224 million in 2002.

17. Insurers have found bonuses, contingent commissions, and other overrides to be a necessary element of dealing with the brokers. As one insurance company manager stated: "With Marsh if we don't have an override we should not call on them. . . . they flat out told us if we want to write business we need to have an override *end of story*." (Emphasis added.)

18. Another company similarly found itself shut out by Marsh and found it necessary to make recourse to override agreements simply to get business. "We are now being heavily penalized by Marsh for not having the [PSA] agreement signed. We are being systematically excluded from . . . placements that we would otherwise like the chance to write

19. Brokers were not shy about making sure the insurance companies got the message – the quality of the product and service were often irrelevant or secondary – the overarching goal being that to sell insurance, the carriers would have to pay overrides.

20. Brokers suggested a very simple approach for insurers to finance these additional commissions: just increase the rates charged to customers in order to raise the cash necessary to pay more to brokers and the brokers would find a way to sell the product.

21. Ultimately, however, the insurance carriers came to realize that, not only did they need to pay bonuses to do business, but they could wield these agreements to "influence" the brokers to sell their product.

22. The use of these incentive payments has elevated the brokers' desire to capture these bonus payments over the clients' interest in receiving insurance products that best meet their needs at the lowest price.

23. Because insurers have obtained significant financial benefit from their dealings with Marsh and other brokers, they have worked in concert to conceal these side arrangements from their mutual clients, the businesses, municipalities, state agencies and others who purchase these products. They have actively concealed information regarding payments made to brokers from government mandated public filings and evaded and obfuscated when clients inquired regarding the sources of their brokers' compensation. The insurers know that cooperating with the brokers to conceal these side arrangements is part of the "quid pro quo" for obtaining business.

24. This business plan was phenomenally profitable for those who played the game. For example, Marsh has reported that in 2003 alone, approximately $800 million of its earnings were attributable to contingent commission payments. That year, Marsh reported approximately $1.5 billion in net income. Marsh, however, had never disclosed to its shareholders, until it was recently forced to, how contingent commissions constitute the lifeblood of its business.

25. The losers in all of this, of course, are the brokers' and insurers' clients and the marketplace for insurance, which the brokers have corrupted by distorting and elevating the price of insurance for every policyholder. Other victims include the taxpayers of the State of

Connecticut, who either paid excessive amounts for needed insurance or were induced to purchase inferior insurance products due to Marsh's misrepresentations.

II. MARSH PLEDGES TO SERVE ITS CLIENTS' INTERESTS

26. Marsh plainly seeks to project the image of undivided loyalty to the interests of its clients. It promises that it will advocate for the client both during the negotiating process and any subsequent negotiations, and will provide the best insurance program for the client's needs. As the official Marsh internet website states, "Our mission is 'To create and deliver risk solutions and services that make our clients more successful.'" The webpage adds: "our clients benefit from the total capabilities of Marsh, Inc and Marsh & Mclennan Companies, Inc. . . . This systemic structure provides a breadth and depth of risk solutions unavailable from any other single source."

27. The essence of Marsh's business is to acquire an understanding of the unique risk and insurance needs of each of its clients and then to evaluate insurance products that meet those needs, compare the pricing and quality and other features of the proposed plans, and recommend the one that best meets all these requirements. Marsh's clients rely on it for the information on which they base their carrier selection decisions.

III. MARSH PUTS ITS LOYALTY UP FOR SALE.

A. Brokers Receive Undisclosed Override Payments – You Pay to Play.

28. Marsh's receipt of secret bonus payments have created potential and actual conflicts with the interests of its clients.

29. For example, regardless of whether a particular insurer's product met all of the needs of Marsh's client, Marsh might not sell that insurer's product unless Marsh got an override or contingency payment.

30. Brokers made it very clear that, if a carrier wished to be seriously considered, it would have to pay. As one [insurance] executive noted: "With Marsh if we don't have an override we should not call on them. . . . they flat out told us if we want to write business we need to have an override end of story. . . . without them we are letting business walk away."

31. In turn, the insurers recognized the ability to "influence" brokers with contingency fee arrangements. "Marsh [is] definitely influenced by these arrangements." In fact, insurance companies began the process of changing the incentive programs to direct payments to the brokers at the local office level.

32. Another insurance company vice president wrote to a Marsh manager: "Our definition of 'incentive' is that you are financially motivated to act in [our] best interests.

33. Consequently, bonuses were allotted upon specific criteria, including "that the producer would give us a steady flow of business, $2 million or more each year . . . ."

B. Insurers 'Level the Playing Field' by Concealing Override Payments They Pay Brokers.

34. As overrides and other "bonus" programs grew in importance and in revenue, brokers became concerned that their clients, the ones also paying them a commission for their professional services, would learn of these back door payments. As early as 2001, one insurance

company e-mail said of Marsh that "[a] BIG issue we will have with the [large brokers] is 'what do we do with those accounts where we are not currently paying any commissions (client is paying them directly) . . . plus the issue of these monies now possibly showing up on a [government reporting form]."

35. Federal law requires certain private employers or insurance companies to disclose all compensation paid to brokers in connection with those employers' purchase of group insurance for their employees. This information must be reported on Form 5500, also known as a Schedule A, and filed by the employer with the United States Department of Labor. The employer may not necessarily know the specific amounts and types of compensation (*i.e.*, commission, consulting payment, override, communication fees) the insurer has paid to the broker. As a result, the insurer usually prepares a schedule for the Form 5500 on behalf of the employer, which reports the amount of compensation the insurer has paid to the employer's broker. In the absence of disclosure of such compensation elsewhere, Schedule A provides an opportunity for employers and employees to learn of the total compensation the broker has received from an insurer. Hence, if payments such as overrides or communication fees are not properly and clearly disclosed on Schedule A, the employer and plan beneficiaries may never learn of their existence.

36. Brokers pushed to conceal the bonuses. At a major meeting between brokers and insurers in September, 2003, brokers in attendance indicated a preference that "the expenses/funding not appear on the 5500 form." Marsh's subsidiary, Mercer, complained about

one insurer's bonus program agreement in particular because it did not sufficiently conceal the contingent commissions. Mercer stated that it had been told that "the '2004 Producer Administrative Agreement' would be the type of document we would want if we did not want to have client-specific, disclosed compensation showing up on [Form 5500s]. In fact, we don't want it appearing on [Form 5500s] since we have communicated to all our clients that overrides are used to offset certain costs of doing business which our [sic] common to all of our client relationships." Mercer added that having overrides on the 5500 "is not ideal for us because overrides and regular commissions might be combined on one amount, raising questions from clients on why our commission disclosures are less than [Form 5500] commission . . . . Is this a requirement that is set in stone or not? This could be a potential deal-breaker for us. . . ."

37. Insurance companies complied and introduced non-reportable override agreements. As one insurance company informed Mercer: "The full amount will be 5500 reportable. . . . If this does not work, we can provide alternative options, such as a producer administrative agreement...."

38. This "option" became quite popular. As one insurer noted: "Marsh is interested in having most of their bonus off of the 5500." Other insurers followed suit to the point that an internal company e-mail complained "[w]e are encouraging our Producers to be paid MORE off of the 5500. I thought it was [the company's] position to have bonus reportable."

39. Brokers were clear; they wanted insurers to comply with their efforts to conceal the override fees, and their efforts paid off.

40. Soon, Marsh and other major brokers were all receiving checks clearly identified as non-disclosed under Form 5500 until, that is, state law enforcement authorities began issuing subpoenas.

C. All Customers Unknowingly Foot The Bill For The Secret Payments

41. It became readily apparent that the money to pay for these undisclosed 'bonuses' had to come from somewhere. Ultimately the insurance companies came to one conclusion: to secretly pass the cost of the hidden override payments to their clients.

43. The brokers were fully aware that these bonus or contingency commissions would impact all consumers of insurance and increase the cost of insurance. As one broker put it: "No client could be made to believe that this cost is not additive to the gross premium – hence we are indeed adding to the clients [sic] cost of risk."

IV. MARSH AND ACE CONCEAL A "BACK-END" BONUS PAYMENT FROM THE STATE OF CONNECTICUT

44. On or about April 10, 2001, the Connecticut Department of Administrative Services ("DAS") sought proposals from qualified insurers to underwrite a loss portfolio program to cover a group of State of Connecticut workers' compensation claims. Specifically, DAS was responsible for administering the workers' compensation program for the State's approximately 50,000 workers. The loss portfolio program was intended to transfer approximately 678 established workers' compensation cases to a third party insurer. The DAS sought guidance from a consultant on obtaining bids on the loss portfolio program.

45. The point of the loss portfolio program was to permit the State of Connecticut, which was self-insured, to pay an insurance company to assume responsibility for both the payment of workers compensation claims of injured and disabled workers and to assume administrative duties associated with a defined number of workers' compensation cases in accordance with all relevant aspects of Connecticut workers' compensation law. It was understood that the insurance company would, in turn, take the premium paid by the State and invest it and use that stream of income to pay the day-to-day costs of running the program, pay the claims, and, if possible, settle some of the cases. Insurance companies believed they could profit from the program, either by obtaining a sufficiently high return on investment of the money received from the state, or by their superior claims management service. In effect, the insurers believed they could run these programs more efficiently than the state.

46. As an initial step in the process, the DAS needed to identify a broker with the requisite experience to assist the state agency in finding a financially sound insurer to handle the transaction. To ensure a thorough vetting of qualified candidates, DAS' consultant, MRM Consulting, Inc. ("MRM"), advised the State to prepare a Request For Qualification (RFQ) which sought detailed information from the potential brokers and which specifically asked for disclosure of the level of commissions (both in dollars and as a percent of premium) which the broker expected to receive..

47. Two brokers responded to the April 10, 2001 RFQ; specifically, Marsh and Hagedorn & Company ("Hagedorn"). In its response to the State's RFQ, Marsh trumpeted its

reputation, stating: "Marsh has tremendous resources for strategic planning, design and benchmarking of the program features that best address the needs and characteristics of the State of Connecticut." Marsh continued, citing its "greater depth of experience" and concluded that "Marsh [is] position[ed] to achieve the best possible solution . . . ." Marsh made clear that "we are the only business partner that can see the State through this – every step of the way."

48. Marsh initially sought compensation for its services based on a percentage of the premium, which would have amounted to in excess of $1,000,000. DAS rebuffed this approach and instead insisted on paying Marsh a flat commission, not a percentage of premium. After a brief round of negotiations, Marsh agreed to accept a $100,000 fee.

49. On or about August 24, 2001 and following the RFQ, DAS prepared a Request for Proposal (RFP) for the two responding brokers, Marsh and Hagedorn. The RFP directed the brokers to identify their respective preferred "markets" or insurance companies from which they intended to secure quotes. The RFP specified explicitly that the ultimately successful broker would be paid a flat commission of $100,000 by the State. In its response, Marsh identified ACE as its most preferred market.

50. A material element of the transaction, from the perspective of DAS, was to segregate the cost of the insurance from the cost of obtaining the insurance, *i.e.,* the broker's commission.

51. Acting upon MRM's advice, the DAS amended its RFP to insist that "Payment of broker commissions shall not be part of the insurers premium." The DAS took this step in order

to understand exactly what the insurance would cost, apart from the commission. Thus, it was very important to DAS' officials involved in the negotiations to separate the two parts of the transaction, the commission paid to Marsh from the premium paid to the insurer awarded the project because the DAS wanted to ensure that the full amount of the premium earmarked to the insurance company would go exclusively toward running the program.

52. Ultimately, the DAS selected Marsh and Hagedorn through the RFP process and permitted each to seek quotes from their preferred markets. The DAS assented to Marsh's request to solicit a bid from ACE, its preferred carrier.

53. On November 6, 2001, before the deal was complete, Hagedorn contacted MRM in an effort to warn the State that Marsh's preferred insurance carrier, ACE, had suffered substantial losses due to the September 11, 2001 terrorist attacks. In a fax to MRM, Hagedorn asked if there was any way to let the State know that, according to a Morgan Stanley Analysis Report: "All Rating Agency's[sic] Standard & Poors, Moodys, Fitch, have taken action on ACE & issued a 'URN' – under review with Negative Implications." (emphasis in original). Hagedorn's fax added that, according to an insurance executive, ACE "is broke, they only have good will." (Emphasis in original).

54. While Hagedorn felt it important to bring this information to the State's attention, Marsh never informed the State of ACE's change in financial status. Marsh continued to push for ACE, even though an internal Marsh document notes that placement decisions typically take into account such complex factors as a market's financial strength.

55. On October 31, 2001, ACE provided the State with a bid for the loss portfolio transaction, which specified that "[t]his Quotation is net of brokerage commission."

56. However, despite its representation to the State that it would be paid only $100,000 for its services, Marsh did not intend to limit its compensation to that fee. Prior to the completion of the transaction, but after the October 31, 2001 representation, a Marsh executive opened negotiations with ACE to the effect that if ACE wanted more of this type of business in the future from Marsh, ACE should pay Marsh a contingency fee on this deal.

57. One week later, on November 14, 2001, the same Marsh executive sent an internal e-mail update about the need to invoice the $100,000 Marsh fee to the State. Two days after that, on November 16, 2001, Marsh formally billed the State $100,000 as agreed and the check request was signed November 16, 2001 to lock in the deal. Throughout the final days before the agreement was finalized, Marsh never disclosed its efforts to secure a contingency payment from ACE.

58. On December 3, 2001, less than two weeks from the date the deal was concluded, the same Marsh manager e-mailed Marsh's New York office with the news that ACE has agreed to pay Marsh a $50,000 contingency fee, over and above the $100,000 fee paid by the State. Included with the contingency fee was a confidentiality agreement related to the transaction.

59. Finally, flatly contradicting its own internal records, and in an obvious effort to cover-up the paper trail created by the emails, an internal Marsh note claimed that the

"[d]iscussion with ACE on incentive/contingency payment commenced after deal was completed/bound/paid."

60. Neither Marsh nor ACE ever informed DAS about this contingency fee, even though ACE had claimed that the $80 million premium was "net of brokerage commissions" and even though Marsh had agreed to a flat $100,000 commission separate from the premium paid ACE.

61. To this day, neither Marsh, the DAS' broker and "business partner" on the project, nor ACE, its insurer, has ever revealed to the State the existence of the $50,000 "back-end" payment.

CAUSE OF ACTION

UNFAIR TRADE PRACTICES

62. The allegations contained in paragraphs 1-61 are hereby incorporated by reference as paragraphs 1-61 of the First Count.

63. The Defendants' actions, as alleged herein, have been undertaken in the conduct of trade or commerce as defined in Conn. Gen. Stat. § 42-110a(4).

64. By engaging in the aforementioned acts and practices, Defendants Marsh and ACE represented to the State:

a. That the Marsh brokerage commission would be only $100,000 when, in fact, it was not;

b. That Marsh would act as a fiduciary solely for the State's interest when, in fact, it would not; and

c. That ACE was a bona fide candidate that had been recommended solely on its qualifications alone when, in fact, it had not been.

65. By engaging in the aforementioned acts and practices, Defendants Marsh and ACE made omissions to the State that they had a duty to disclose by virtue of Marsh's fiduciary status and ACE's contractual status with respect to the State and their statements to the State concerning certain topics including those listed in paragraphs 64 (a-c), including:

a. That Marsh would receive remuneration from ACE as a result of ACE's selection as the State's insurer;

b. That ACE had material issues related to its financial health that might affect its ability to perform the State's contract;

c That ACE had material issues related to its financial health that might affect the State's decision to award them the workers' compensation contract; and

d. That the price of ACE's services that the State would pay might be increased by ACE's concealed payment to Marsh.

66. The Defendants' representations and omissions, as alleged herein, were material to the State's decisions to purchase insurance products; were reasonably interpreted by the State and were likely to mislead the State.

67. The Defendants' acts and practices, as alleged herein, individually and in concert with each other, violated the public policy of the State of Connecticut, including but not limited to:

a. the public policy prohibiting violations of the trust, confidence, and duties owed within a fiduciary relationship, as embodied in the common law; and

b. the public policy prohibiting misrepresentations of the terms of insurance, misrepresentations of financial condition, omissions, and/or false statements in the course of the sale of insurance products, as embodied in Conn. Gen. Stat. § 38a-815, *et seq.*

68. The Defendants' acts and practices, as alleged herein, are immoral, unethical, oppressive or unscrupulous and have caused substantial injury.

69. The Defendants' acts or practices, as alleged herein, violate § 42-110b-18(e) of the Regulations of Connecticut State Agencies, because they misrepresented the nature, characteristics, benefits and qualities of the services provided by the Defendants.

70. The Defendants' acts or practices, as alleged herein, have caused the State to incur substantial damages, and the State has suffered an ascertainable loss of money and/or property as a result of the Defendants' conduct.

71. The Defendants' acts or practices, as alleged herein, therefore constitute unfair or deceptive acts or practices in violation of Conn. Gen. Stat. § 42-110b(a).

WHEREFORE, pursuant to Conn. Gen. Stat. §§42-110g the State of Connecticut requests the following relief:

A finding that the Defendants have engaged in trade or commerce in Connecticut;

A finding that the Defendants have engaged in unfair or deceptive acts or practices in the course of trade or commerce in Connecticut which constitute violations of the Connecticut Unfair Trade Practices Act;

An order requiring the Defendants to submit to an accounting to determine the amount improperly paid to Defendants as a result of Defendants' acts and practices;

An order, pursuant to General Statutes 42-110g(a), directing Defendants to pay actual damages to the State;

An order, pursuant to General Statutes 42-110g(a), directing Defendants to pay punitive damages;

An award of the costs for the investigation and prosecution of this action, including reasonable attorneys' fees, pursuant to General Statutes 42-110g(d); and

Such other relief as is just and equitable to effectuate the purposes of this action.

Dated at Hartford, Connecticut, this 21st day of January, 2005.

PLAINTIFF
STATE OF CONNECTICUT

RICHARD BLUMENTHAL
ATTORNEY GENERAL

BY:

Robert Snook
Assistant Attorney General
409631
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120

RETURN DATE: February 22, 2005

STATE OF CONNECTICUT	:	SUPERIOR COURT
	:	
	:	JUDICIAL DISTRICT OF HARTFORD
Plaintiff,	:	AT HARTFORD
v.	:	
	:	
MARSH & MCLENNAN, INC.,	:	
MARSH USA RISK SERVICES, INC.	:	
D/B/A MARSH USA, INC., AND	:	
ACE FINANCIAL SOLUTIONS, INC.	:	
	:	JANUARY 21, 2005
Defendants.	:	

AMOUNT IN DEMAND

The amount, legal interest or property in demand is $15,000.00 or more, exclusive of interest and costs.

PLAINTIFF
STATE OF CONNECTICUT

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